

208). A Federal employee may act as a representative only:

(a) On behalf of immediate family members, defined as a spouse, children, parents, and siblings of the representative, provided no fee or gratuity is charged; or

(b) While acting as a union representative, defined as any officially sanctioned union official, and no fee or gratuity is charged.

§ 10.702 How are fees for services paid?

(a) A representative may charge the claimant a fee and other costs associated with the representation before OWCP. The claimant is solely responsible for paying the fee and other charges. The claimant will not be reimbursed by OWCP, nor is OWCP in any way liable for the amount of the fee. Contingency fees are not allowed in any form.

(b) Administrative costs (mailing, copying, messenger services, travel and the like, but not including secretarial services, paralegal and other activities) need not be approved before the representative collects them. Before any fee for services can be collected, however, the fee must be approved by the Secretary.

§ 10.703 How are fee applications approved?

(a) *Fee application.* The representative must submit the fee application to OWCP for services rendered before OWCP. (Representative services before ECAB must be approved by ECAB under 20 CFR part 501.) The application submitted to OWCP shall contain the following:

(1) An itemized statement showing the representative's hourly rate, the number of hours worked and specifically identifying the work performed and a total amount charged for the representation (excluding administrative costs).

(2) A statement of agreement or disagreement with the amount charged, signed by the claimant. The statement must also acknowledge that the claimant is aware that he or she must pay the fees and that OWCP is not responsible for paying the fee or other costs.

(b) *Approval where there is no dispute.* Where a fee application that describes the services rendered in accordance with paragraph (a)(1) of this section is accompanied by a signed statement indicating the claimant's agreement with the fee as described in paragraph (a)(2) of this section, the application is deemed approved except that no contingency fee arrangement may be considered deemed approved through this process.

(c) *Disputed requests.* (1) Where the claimant disagrees with the amount of the fee, as indicated in the statement accompanying the submittal, OWCP will evaluate the objection and decide whether or not to approve the request. OWCP will provide a copy of the request to the claimant and ask him or her to submit any further information in support of the objection within 15 days from the date the request is forwarded. After that period has passed, OWCP will evaluate the information received to determine whether the amount of the fee is substantially in excess of the value of services received by looking at the following factors:

- (i) Usefulness of the representative's services;
- (ii) The nature and complexity of the claim;
- (iii) The actual time spent on development and presentation of the claim; and
- (iv) Customary local charges for services for a representative of similar background and experience.

(2) Where the claimant disputes the representative's request and files an objection with OWCP, an appealable decision will be issued.

§ 10.704 What penalties apply to representatives who collect a fee without approval?

Representatives who collect a fee without proper approval from OWCP may be charged with a misdemeanor under 18 U.S.C. 292.

THIRD PARTY LIABILITY

§ 10.705 When must an employee or other FECA beneficiary take action against a third party?

(a) If an injury or death for which benefits are payable under the FECA is